# TOWN OF NEW WINDSOR

#### ZONING BOARD OF APPEALS

JUNE 14, 2010

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN

FRANCIS BEDETTI, JR. JAMES DITTBRENNER RICHARD HAMEL

ALSO PRESENT: ANDREW KRIEGER, ESQ.

ZONING BOARD ATTORNEY

NICOLE JULIAN

ZONING BOARD SECRETARY

ABSENT: PAT TORPEY

APPROVAL\_OF\_MINUTES\_DATED\_MAY\_10,\_2010

 $\operatorname{MR.}$  KANE: Motion to accept the minutes of May 10 as written.

MR. DITTBRENNER: So moved.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER AYE MR. BEDETTI AYE MR. HAMEL AYE MR. KANE AYE

#### PRELIMINARY MEETINGS:

# PLAY\_IT\_AGAIN\_SPORTS\_(10-15)

MR. KANE: Play It Again Sports is first.

MR. BORKO: That's me.

\_\_\_\_\_\_

MR. KANE: Just state your name, address, speak loud enough for this young lady to hear you.

MR. BORKO: My name is Steven Borko, I own Play It Again Sports store. We're moving to a new location in the Price Chopper Plaza, we have an existing box sign at our current location we've used for the last 10 years. We'd like to move that across the street to the new location.

MR. KANE: Was that a previous existing sign on the old thing or did you have a variance for it on that building?

MR. BORKO: This board actually gave me a variance 10 years ago when we first started.

MR. KANE: To refresh my memory, the sign itself internally illuminated, no flashing lights?

MR. BORKO: Correct, letters are black during the day and white when it's lit at night.

MR. KANE: Compared to the other signs that are on in the Price Chopper Plaza, similar in size and nature?

MR. BORKO: Actually, I think smaller than what's in there but--

MR. KANE: For the public hearing, could you grab a couple pictures and just as comparisons for us and bring them in?

MR. BORKO: Sure.

MR. KRIEGER: You want to know how far motorists are going to have to look on an adjacent roadway to see your store.

MR. KANE: From the store front here how many feet is it to 94?

MR. BORKO: Okay, that's a long ways, it's across the parking lot.

MR. KANE: For the record.

MR. KRIEGER: You're going to be asked the question and you want to have some answer other than humina, humina, humina.

MR. DITTBRENNER: One of the keys is the size of the sign, the reason you're requesting this is because the road frontage distance would require something of that size so that people can actually recognize your location so I think it's important for us to understand what the distance is cause it is substantial.

MR. BORKO: I'll get that.

MR. KANE: Further questions?

MR. BEDETTI: Is this just a rendering or is this the actual sign?

MR. BORKO: That's my sign superimposed on the space that it would go on as to scale.

MR. BEDETTI: That's an existing sign?

MR. BORKO: Correct, that's the existing store front and that's as close to scale as I'm able to do but I

think it's pretty close.

MR. KANE: Further questions?

MR. DITTBRENNER: I would move we forward the application of Play It Again Sports as it relates to a variance requested for a proposed sign requiring a 7 foot 6 inch variance at 115 Temple Hill Road in a C zone for a public hearing.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER AYE MR. BEDETTI AYE MR. HAMEL AYE MR. KANE AYE

 $\mbox{MR. KANE:}\ \mbox{This gives you all the information.}\ \mbox{Any questions, give Nicole a call.}\ \mbox{Thanks for your patience.}$ 

## DOLORES SCHIMENTI (10-16)

MR. KANE: Second preliminary meeting Dolores Schimenti, excuse me, I hope I didn't butcher the name, request for a variance for an existing shed that does not meet 10 foot setback a variance of 6 foot 3 inches required at 305 Maple Avenue in an R-4 zone. Come on up, tell us exactly what you want to do.

Mrs. Dolores Schimenti appeared before the board for this proposal.

MRS. SCHIMENTI: Well, the shed is existing and it obviously is not setback the 10 feet that it should be. My late husband measured it from my neighbor's stake as opposed to from our house.

MR. KANE: How long has the shed been in existence?

MRS. SCHIMENTI: For 22 years, the house behind me was sold and the property line was then staked which gave me knowledge of the fact that I was not where it should have been.

MR. KANE: Any complaints formally or informally about the shed?

MRS. SCHIMENTI: No.

MR. KANE: Is the shed similar in size and nature to other sheds in your neighborhood?

MRS. SCHIMENTI: Yes.

MR. KANE: Any easements going through where the shed is placed?

MRS. SCHIMENTI: It would be more than 10 feet not where that property line is, the Beaver Dam Lake Water Corporation.

MR. KANE: So no easements right where the shed is?

MRS. SCHIMENTI: No.

MR. KANE: And questions I have to ask obviously not removing substantial trees and vegetation with the shed?

MRS. SCHIMENTI: No.

MR. KANE: Did you create any water hazards or runoffs with the building of the shed?

MRS. SCHIMENTI: No.

MR. KANE: Is the shed sitting on a concrete platform?

MRS. SCHIMENTI: No, it's on cinderblock wooden floor.

MR. KANE: Further questions?

MR. BEDETTI: What would prevent you from moving it the proper distance?

MS. SCHIMENTI: Well, my husband built the shed and it wasn't one that just was brought in to put down so I'm not sure I can see where the rafters are but I'm not really sure whether or not a forklift could lift this without destroying it.

MR. BEDETTI: So there would be some difficulty in moving it?

MRS. SCHIMENTI: Right.

MR. KANE: Also the property around the, from looking at pictures that you gave us is basically on an angle and that was kind of dug out and built up to put it in so that would add more of a financial hardship in the

moving of the shed.

MRS. SCHIMENTI: Say again.

MR. DITTBRENNER: Based on grade of the property.

MR. KANE: The grade of the property is sloped so if you were able to get a forklift and move it you'd have to dig out the ground to get a level piece of ground.

MRS. SCHIMENTI: Definitely.

MR. KANE: That adds to further financial hardship in the moving of the shed. Further questions?

MR. DITTBRENNER: I would offer a motion that we move the application for Dolores Schimenti, 30 Maple Avenue forward for a public hearing as requested for a variance required for an existing shed requiring a rear yard setback variance of 6 foot 3 inches.

MR. BEDETTI: I'll second that.

ROLL CALL

MR. DITTBRENNER AYE
MR. BEDETTI AYE
MR. HAMEL AYE
MR. KANE AYE

MR. KANE: This tells all your next steps, if you have any questions, give Nicole a call. Thank you.

#### PUBLIC HEARINGS

NEW WINDSOR SENIOR HOUSING (10-10)

MR. KANE: First public hearing is New Windsor Senior Housing referred from the planning board for bulk variance to increase unit count from 91 to 93. No request has been made for off-street parking. Applicant indicates that two additional spaces will be provided to address the two additional at Senior Court in an R-4 zone. Is there anybody here for this particular hearing besides the applicants? Okay, just state your name, address, speak loud enough for this young lady to hear you.

MR. DITTBRENNER: Before we begin, I will need to as an officer of the applicant I will need to recuse myself from a vote on this.

MR. KANE: Okay, you're on.

MR. MANDELBAUM: My name is Jonah Mendelbaum, I'm the developer of the project. Just background a little bit during the course of construction when we developed the building in this particular building here there are two units that originally under the plan were called for storage. They are identical in size for an apartment building, they are identical in measurements to everything that exists there and so they're, the influx of applications that we have, we have over 300 applications for 91 units. We asked the Planning Department if we can finish the building, they give us permission to finish it, the apartments but not to occupy them until we see a variance from you and an approval from the planning board. As far as parking, we also secured parking right next door to us as you're coming in there's 25 spots right here next RAL which we have permission to use their parking lot for overflow parking or for visitors. Everyone within the building was notified if they have visitors they should park

their cars. I was just there a while ago, there's only two cars, right now we have 66 spots, we only have 56 cars actually in the complex so we feel we have ample parking and we have over 100 people on a waiting list as we speak right now for the two apartments so desperate need of apartments there.

MR. KANE: If I remember correctly, this came up basically we're looking at a math issue with that and how that was approved.

MR. DITTBRENNER: The variance for parking had previously been approved based on the calculations required in the code. The overwhelming demand in this market for this type of housing caused Mr. Mandelbaum to re-evaluate some of the space in the existing building, he was able to accommodate creating two additional apartments which we obviously approached the Planning Department about completing to provide these opportunities for. Again, this entire project is driven towards affordability for seniors low income housing opportunities, we're able to take some existing space, create these two additional units to accommodate two additional seniors affordability in apartments and there's certainly ample parking based on existing population that's in the building. In addition, Mr. Mandelbaum extended to one of the local businesses RAL Plumbing Supply has secured an agreement with them for unlimited use of the parking at the rear of the building which we've made some improvements, we've striped it at our expense, we've repaired the lighting for that parking lot at our expense to create viable parking as overflow because again, the resident population that's in the building there's more than sufficient parking but we knew that if there was a family event, a party in the community room or something else going on and we needed additional parking we actually have 25 parking spaces that have been provided to us.

MR. MANDELBAUM: Twenty-seven.

MR. DITTBRENNER: Twenty-seven by RAL at the rear of the building. In addition, Mr. Mandelbaum has placed some Item 4 on the far side of the parking lot, it could be temporarily used as overflow parking if we had the necessity, we've made more than ample space available for the fire department so the vehicles can get into that parking area adequately, turn their equipment around in that parking lot.

MR. KANE: Yeah, I knew our intent with doing if I remember correctly doing the parking was made towards the building itself and we really didn't issue the amount of units that were in there so the calculation came out that instead of their storage rooms you're going to use them as actual rooms. But we made that whole decision on that. As far as I'm concerned, I think, I don't see an issue with it. Frank?

MR. BEDETTI: No, the only question I had the way this is written said no request has been made for off-street parking. Does that mean no requests from the applicant?

MR. KANE: That's correct.

MR. BEDETTI: I didn't know whether that referred to tenants who are not making a request.

MR. KANE: No, that's from the applicant, they are not requesting a parking variance cause when we first went through this we included the space of the building basically in our decision to give them those parking spaces so the unit change from 91 to 93 doesn't change the size of the building.

MR. MANDELBAUM: The size of the building has not changed whatsoever, not one inch.

MR. BEDETTI: With respect to the density, unit density, what's this work out to now? You have based on the lot area that you have this is available to build because I think the code, I'm assuming that you already have a variance for the number of units and you're increasing the density beyond what your variance was. Is that correct?

MR. MANDELBAUM: The variance based on the calculation was like almost if you calculate acreage it's over 100 at the time we didn't exceed, we don't have 100.

MR. DITTBRENNER: Yeah, understand density is not the issue, the issue is the parking requirement.

MR. BEDETTI: That's what I'm trying to determine whether it's two things that we're looking at parking and the increase from 91 to 93 units or just the parking.

MR. DITTBRENNER: The density complies with the code, it's the parking spaces.

MR. BEDETTI: That's the only thing we're addressing here is the parking spaces?

MR. DITTBRENNER: Correct.

MR. BEDETTI: And they're being provided?

MR. KANE: They're being amply provided.

MR. BEDETTI: Just so I know what it is we're making a decision on.

MR. KANE: I will open this up to the public portion, ask again if there's anybody here that wishes to speak on this issue? Seeing as not, we'll close the public portion and ask Nicole how many mailings we had?

MS. JULIAN: On the 10th day of May, 2010, I mailed out 31 addressed envelopes with no written response.

MR. KANE: Any further questions from the board? Further questions? I'll accept a motion.

MR. BEDETTI: I will make a motion that we grant New Windsor Senior Housing a variance for two units 91 and 93 units with two additional parking spaces provided in the Senior Court in an R-4 zone.

MR. HAMEL: Second it.

ROLL CALL

MR. DITTBRENNER ABSTAIN
MR. BEDETTI AYE
MR. HAMEL AYE
MR. KANE AYE

# BRYAN\_TALBOT\_(10-11)

MR. KANE: Next public hearing Bryan Talbot single family dwelling with a proposed 10 x 16 shed which will be 4 feet from the rear lot line, 5 feet from the side lot line. A variance of 6 foot rear 5 foot side is required. A proposed pool deck will be 6 foot from the side lot line. A variance of 4 foot is required.

Mr. Bryan Talbot appeared before the board for this proposal.

MR. KANE: Come on up, tell us in your own words exactly what you want to do.

MR. TALBOT: I want to put a shed in the corner of my property for storage and I wanted to put a deck on the side of my pool so that when the children are swimming my wife could be at a higher elevation and be able to see the kids better than if she was sitting on a chair, you know, on the side of the pool. And that's what I wanted to do.

MR. KANE: Let's tackle the shed first. Four foot so the shed's not built yet, it's proposed?

MR. TALBOT: No, I was going to order a pre-made shed.

MR. KANE: Explain why we need that 4 foot and 5 foot off the property lines?

MR. TALBOT: Because our yard is pretty small and I staked it out both ways with a variance and without a variance and those few feet make like a big difference in the amount of usable area of the yard.

MR. KANE: If you keep it the distance coming out from the property lines, does it put it closer to the pool?

MR. TALBOT: Yes, it would put it 5 feet closer to the

pool.

MR. KANE: So your opinion that's the safest place in your yard to put that shed?

MR. TALBOT: Yes.

MR. KANE: Shed's going to be similar in size and nature to other sheds that are in your neighborhood?

MR. TALBOT: Yes.

MR. KANE: Cutting down substantial trees or vegetation in the building of the shed?

MR. TALBOT: No.

MR. KANE: Some are more obvious but I have to ask the question, creating water hazards or runoffs?

MR. TALBOT: No.

MR. KANE: Any easements going through the area where you wish to place the shed?

MR. TALBOT: No.

MR. KANE: Further questions on the shed, gentlemen? Okay, the pool, so the deck is going to be on that side, explain to us why the pool deck's going where it is.

MR. TALBOT: Same thing to get most usable space in the yard, we have small kids and, you know, they like to run around, we're trying to just make the most usable space in the yard that it's a small lot and keep it, keep as much usable space as we can.

MR. KANE: Will the use of the pool deck provide a safer situation for the entrance to the pool?

MR. TALBOT: Absolutely, if something was to happen we'd be up sitting on the deck while the kids are swimming and jump right in as opposed to climbing up and down an A-frame, you know, those A-frame pool ladders.

MR. KANE: And from the photographs it's an oval pool so you're putting it on the straight end of the oval pool which is a better place to put it.

MR. TALBOT: Yes.

MR. KANE: At this point, I'll open it up to the public, ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close the public portion of the meeting and bring it back to Nicole, ask her how many mailings we had.

MS. JULIAN: On the 7th day of May, 2010, I mailed out 32 addressed envelopes with no written response.

MR. KANE: Bring it back to the board for any further questions, gentlemen?

MR. DITTBRENNER: Is there any particular reason you're placing the deck on the pool closer to the property line and not closer to the house?

MR. TALBOT: Just to keep the area as open for the kids to play.

MR. DITTBRENNER: Is this kind of like a patio or platform?

MR. TALBOT: This thing here?

MR. DITTBRENNER: No, here.

MR. TALBOT: Oh, that's coming out, yeah, I get a lot

of snakes under there so that's gone.

MR. KANE: I'll accept a motion.

MR. BEDETTI: I will make a motion that we grant a variance of 6 feet to the rear property line, 5 feet to the side as required for the shed and 4 foot variance required at I believe that's from a side lot line at 8 Judd Circle in an R-4 zone for Bryan Talbot.

MR. DITTBRENNER: Second it.

ROLL CALL

MR. DITTBRENNER AYE MR. BEDETTI AYE MR. HAMEL AYE MR. KANE AYE

MR. TALBOT: Thank you.

MR. KANE: Have a good evening.

JOHN L. PIZZO (10-12)

MR. KANE: Next is John Pizzo, off-street parking variance for six spaces in connection with a second floor 1,080 square feet office area located at 819 Little Britain Road.

MR. SHAW: Thank you. For the record, my name is Greg Shaw from Shaw Engineering and if I could, I'd like to read into the record the narrative that I prepared along with the application, I think it gives some background information. It also touches on the five key points that this board needs in order to address the variance. John L. Pizzo Enterprises LLC owns a 3,300 square foot office building that's situated on an 8/10 of an acre parcel of land located between Temple Hill Road, New York State Route 207 and Little Britain Road. The subject property is within the professional office zoning district. It is the only parcel within this district as it abuts the OLI zone, the R-4 zone and the PI zone. John L. Pizzo Enterprises which constructed this office building in 2008 presently has a site plan application before the New Windsor Planning Board to amend its approved site plan to allow an additional 1,080 square feet of office space on the building's second floor. In order to utilize this additional office space, New Windsor Zoning Ordinance requires a total of 30 spaces for the property. As there are presently 24 parking spaces on the subject property and no site improvements are proposed, an area variance for six parking spaces is required from the Zoning Board of Appeals. Whether the benefits sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance. No other feasible method is available to the applicant. The site is quite small at 8/10 of an acre. It's unique in that it fronts on three streets and thus has three front yards. Development of the site is further compounded by the fact that it's triangular in shape. For these reasons, it is not possible to create

any additional parking spaces to minimize the variance. There's no other method that the applicant can feasibly pursue other than a variance sought in this application. Whether the requested area variance is substantial. The parking variance of six spaces is not substantial as it represents only a 20 percent reduction from that required by zoning. The 24 parking spaces which presently exist will be adequate for the existing building and the additional 1,080 square feet of office space. Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district. The requested parking variance would allow the expansion of the office use which is permitted in the PO zoning district because it's a permitted use and because the additional office area will not result in an expansion of the building. The granting of the variance will not have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district. Whether the alleged difficulty was self-created. This factor is perhaps the most misunderstood factor in the balancing test of granting an area variance. The difficulty in utilizing the second floor for office use because of the lack of adequate parking can be considered self-created. However, just because it's self-created does not require the denial of a variance. It is important to note that the site cannot accommodate another parking space due to the physical limitations presented above. If an area for additional parking was available, the applicant would construct the spaces and eliminate the need for the variance. Finally, why the Zoning Board of Appeals should grant the application for an area variance. The applicant constructed a building that is very visual architecturally appealing, an asset to the community. With the downturn in the economy resulting in limited tenants and reduced rental rates, it is a challenge to meet financial obligations. Allowing utilization of the second floor for office use will assist in offsetting the current economic climate.

Sufficient parking presently exists for the additional 1,080 square feet of office space. The deficiency of six parking spaces is not substantial and will not have an impact on the neighborhood or community. In view of the facts and circumstances presented to this board, the applicant respectfully requests that the variance sought be granted. Thank you for your patience in allowing me to get that into the record.

MR. KANE: Not a problem. I have issues with this honestly. We in 2006 we went through a lot to get this building up and do a lot of variances and the way they built the building, I just find it hard to understand how he didn't think he was going to develop the second floor. We gave variances for the parking for the initial thing up front.

MR. SHAW: You think what?

MR. KANE: Were there parking variances with the initial building?

MR. SHAW: No.

MR. KANE: None at all?

MR. SHAW: Not to the best of my knowledge, no. There was setback issues because you had three front yards but nothing with respect to parking to the best of my knowledge.

MR. DITTBRENNER: The original application never included the proposal of or what I can see in the minutes no comments on developing the second floor at all, that was just storage?

MR. SHAW: I can tell you in being the engineer for the original building, the utilization of the second floor as for office use never came up between me and my client. It was storage, plain and simple storage,

nothing more, nothing less. And it wasn't until the building was being built that he took let's use the word initiative to start preparing under the eyes of the New Windsor building inspector but certainly not with their blessing to prepare the second floor for an office realizing full well that if he didn't get the approval from the zoning board and the planning board it would have to come out.

MR. KANE: There's a feeling that we went through, there was some variances that we had to do for that building and you built it that size, something in the back of my mind says were they there originally and left it out because there were too many variances in the first place, you know where I'm going with it, Greg, and try to circumvent the process?

MR. SHAW: I don't know how to talk you out of it. I only can tell you in my dealings with him he wasn't trying to back door the town or wasn't trying to cut any corners. He just didn't view it. In fact, to be honest with you, the architectural plans weren't even done at this time, the plans didn't come about until after we got the variances from this board and planning board approval. Then he retained an architect and started laying out the actual building from the footprint that the boards approved so it's not as if he was trying to squirrel something away in the approval process because he didn't know what the second floor was going to look like.

MR. KANE: I've been dealing with you for a lot of years now so your word I'll take.

MR. SHAW: Thank you.

MR. DITTBRENNER: And in your knowledge at the time this building was laid out there was no discussion of that second floor being anything other than storage space?

MR. SHAW: No, it was purely storage and there was no architectural drawings, if I had seen a set of plans with a set of stairs going up or something laid out with respect to an office, I'd have an obligation to tell that board. That information didn't exit, it was just my box on the site plan that this board and the planning board approved and there was no sense investing money into architectural drawings unless you got the necessary variances and we got a good number of variances from this board, you were very good to him.

MR. KANE: Okay.

MR. HAMEL: When did he put the set of stairs in?

MR. SHAW: I believe once we got the approval from the board, he retained the services of an architect and in the process to serve the architect in laying out the building indicated a set of stairs cause it was going to be for storage and that evolved from storage into potentially office. So I would have to say during the preparation of the architectural drawings is when the stairs came into play cause if you're going to access the second floor for anything that's the time to do it.

MR. HAMEL: Why is he building out the second floor now if he doesn't have any tenants at all?

MR. SHAW: He has two potential tenants, husband and wife that has an advertising firm, they'll be running their office and only the two of them will be operating out of the upstairs if he gets the variances and he wanted me to convey that to the board and I explained to him that sounds great but the board is granting the variance for office use, not saying the next tenant a year from now you can't bring 10 people or whatever the office can support. So by virtue of the fact of him having just potentially just a couple people for the whole upstairs really doesn't carry a lot of weight

with the board. I hope that answered your question.

MR. KANE: The stairs leading upstairs, the design of the stairs were they more extravagant or a regular stairway?

MR. SHAW: No, just a conventional set of wood stairs going up from what I've seen on the plans.

MR. KANE: At this point, I'll open it up to the public and see if there's anybody here for this particular hearing. And you can speak, you just need to stand up, state your name and address.

MRS. FRAWLEY: My name is Miriam Frawley, I live at 67 Steele Road which is very close to the office space and we're the husband and wife who are interested in the space upstairs.

MR. SHAW: Oh, never met you. How are you?

MR. KANE: And your comments?

MRS. FRAWLEY: Well, we've been in our current office for 10 years in Highland Mills and we moved to New Windsor about four years ago, we would love to move our office to New Windsor to be closer and that space is perfect for us.

MR. KANE: What kind of business do you have and what kind of traffic for the parking lot do you foresee?

MRS. FRAWLEY: Well, in the 10 years we've been in our current space we've had maybe a visitor a week, if we're lucky. Most of our clients are in the city and we do the lot of internet work and I don't know if any of you are familiar with advertising these days but approvals are done online for most of the work. We've had some interns, we've had some suppliers coming in but not anything steady in 10 years.

MR. DITTBRENNER: So your business is advertising?

MRS. FRAWLEY: Advertising, yes, our business name is e-Diner Design and Marketing and we're hoping you'll say okay cause we're looking forward to moving in.

MR. SHAW: I didn't know they were going to be here tonight and I never met them.

MRS. FRAWLEY: We weren't going to speak at all, we wanted to listen in but it sounded scary.

MR. KANE: That's a very unique piece of property and it's been embattled for I don't know how many years and going through and getting that building built was a process so, you know, you get a feeling later on you just want to make sure somebody wasn't circumventing the whole thing by piecemealing, asking for variances as they're going to build something up instead of coming in, wow, that's a lot of variances and you might get turned down. So that's the first thought that runs through your mind on a project like that because it took so long and so much to put it together that in the back of my mind, it's like you didn't think about developing the second floor, it's a little bit of a question mark but I've been dealing with this gentleman for 17, 18 years now and his word is binding as far as I'm concerned.

MRS. FRAWLEY: I don't know if this is of any interest, it's a very weird space.

MR. FRAWLEY: It's an awkward space.

MRS. FRAWLEY: The dormers are 5 foot 6 by 11, we've done a lot of measuring to see if we can fit.

MR. KANE: So I won't be visiting much, I'm 6'4", I don't think so.

MRS. FRAWLEY: No, I mean, they're pretty high, they're 9 foot ceilings but the dormers are very narrow so in order to put even a desk in that there's not that room for the table so we've had to do some thinking about how just the two of us would fit so I don't know if it would be a huge risk of having a lot of people up there but--

MR. KANE: In your opinion then you wouldn't see somebody designing that type of a second floor office space and really expecting to do it up front? It's like a secondary thought.

MRS. FRAWLEY: I think so, I think right now he has his office up there, he himself just kind of hangs out up there every once in a while, he likes to be near the office. And in fact, I think he's hoping to retain the other side of the stairs, I don't know if you've seen the plans of how he has it broken up, there's one little office on one side that has two dormers only and nothing in the middle pretty much and then the other side of the building that's the space that we're interested in so he's going to keep that little tiny bit so I don't even think that we're talking about a full 1,080 square feet.

MR. SHAW: What happens cause he has these dormers, as you ride by, you see a lot of them, while the number's 1,080 square feet, I don't know what the real usable square footage is, maybe 600, maybe 700, okay, but you can't use all these little projections that go out to the exterior window but they still have to be included in the calculations.

MR. FRAWLEY: Big "I" shape.

MRS. FRAWLEY: You have to be very creative to figure out how to use it and we're creative people.

MR. BEDETTI: Is the first floor fully rented?

MR. SHAW: No, I believe the only tenant is Searles Real estate business, Searles Prudential, I ride by there quite a bit, I see maybe two cars, maybe three cars at best. So I don't believe it's rented. I think he just has I believe he has three suites in the bottom and I think just one suite is rented out.

MR. KANE: Okay, anyone else in the public for this particular hearing? If no, I'll close the public portion of the hearing and ask Nicole how many mailings we had.

MS. JULIAN: On the 11th day of May, 2010, I mailed out 10 addressed envelopes with no written response.

MR. KANE: Bring it back to the board for further questions.

MR. HAMEL: I have a question. This building sprinklered at all or maybe they don't require it? I'm thinking as a safety thing.

MR. SHAW: I think New Windsor zoning, excuse me, the local law requires over 5,000 square feet to be sprinklered. I think this is 3,300 so if I was a betting man and I don't know for certain I would say no.

MR. KANE: Yeah, that doesn't fall under what we decide, the building department would cover all that.

MR. DITTBRENNER: It's 4,300 but it still doesn't meet it, it's not required.

MR. BEDETTI: That's a planning board issue.

MR. KANE: Building department issue and the planning board, nothing we'd review.

MR. DITTBRENNER: Greg, is there any way that and I know all curb cuts are done and the paving's done but is there any way, any redesign of parking that you're, if you're looking at the building to the left side if you're looking at the front of the building that you can add two or three additional spaces?

MR. SHAW: No, I tried when I did the site plan originally for the building, I just got everything in because if I could have made the building bigger so I could get more parking I would have. The site is tapped out, I can't get anymore parking approved.

MR. KANE: Yeah, there's just no way to do it, we're pretty thorough on that. Any further questions? I'll accept a motion.

MR. BEDETTI: I will make a motion that we grant off-street parking for six spaces to John L. Pizzo on 819 Little Britain Road in a PO zone as requested.

MR. DITTBRENNER: I'll second that.

ROLL CALL

MR. DITTBRENNER AYE
MR. BEDETTI NO
MR. HAMEL AYE
MR. KANE AYE

MR. SHAW: Thank you so much. Good evening.

MRS. FRAWLEY: Thank you.

MR. KRIEGER: So from my guidance and writing do you want me to put in as a condition that he have his office there?

MR. DITTBRENNER: I think that was conjecture of

potential tenants, I didn't hear Mr. Shaw saying that his client is proposing that.

MR. KRIEGER: That was surprise information I know but I just wanted to do whatever the board wanted me to do.

MR. KANE: No, I think I've got the answer I wanted. We'll let it ride.

# JOHN & ROSE MITCHELL AND COLLEEN BAILEY (10-13)

MR. KANE: Next public hearing John and Rose Mitchell and Colleen Bailey referred from the planning board for proposed 2 lot subdivision, need variances for proposed lot number 1 gross lot area, lot width and minimum livable existing condition, proposed lot number 2 gross lot area located at 230 Spruce Street in an R-4 zone.

MR. SCALZO: Good evening to you, I'm Darren Scalzo, I'm here this evening representing Mr. and Mrs. Mitchell, we're here for exactly what was stated. We're looking for variances for lot 1 and lot 2 for gross lot area, we're looking for lot width variance for lot number 1 of 4.1 feet, and also minimum livable floor area for lot number 1 or 60 square feet which is an existing condition. There are no further proposed additions to the dwelling that's on there. Mr. and Mrs. Mitchell hope to eventually develop this lot for themselves to next door to their daughter, Miss Bailey is their daughter. It's a pretty simple subdivision, two lots, we're in kind with the neighborhood, there's really nothing tricky about it.

MR. KANE: Cutting down any substantial trees or substantial vegetation?

MR. SCALZO: Actually, sir, whatever's listed, I left all the trees on the proposed plan. It looks like we can probably get away with a half dozen trees maximum and they're all as I say I put the proposed single family dwelling on the map as requested in the last Zoning Board of Appeals meeting.

MR. KANE: Thank you. Okay, creating any water hazards on runoffs?

MR. SCALZO: No, sir.

MR. KANE: Any easements running through?

MR. SCALZO: No, sir, not that unless there's been a title search on it, I don't believe so.

MR. KANE: My understanding of this when we looked at the neighborhood that this lot in subdividing this the two remaining lots would actually become still some of the bigger lots in that particular neighborhood.

MR. SCALZO: That's correct. There's one parcel that's contiguous with this that's an equal size to the larger lots but yes, we're in kind. We're larger, the two lots that we're creating are larger than 90 percent of the lots in the general area and I have a copy of that tax map which I handed out at the last meeting if you don't have it.

MR. KANE: At this point, I'm just going to open it up and see if there's anybody from the public here for this particular meeting? Seeing as there's not, we'll close the public portion of the meeting and bring it back to Nicole and ask her how many mailings we had.

MS. JULIAN: On the 14th day of May, 2010, I mailed out 82 addressed envelopes with no written response.

MR. KANE: Further questions from the board?

MR. SCALZO: This is Mr. Mitchell who's standing to my left, he went to the wrong room to begin with so if you have any questions for Mr. Mitchell, he'd be happy to answer.

MR. KANE: Personally, I think it makes sense.

MR. DITTBRENNER: Want a motion?

MR. KANE: If there's no further questions, I will accept a motion.

MR. DITTBRENNER: I'd be happy to make a motion that we approve the application of John and Rose Mitchell and Colleen Bailey as it relays to referral from the planning board for variances required on proposed lot 1 for gross lot area, lot width, minimum livable area which is an existing pre-condition proposed lot 2 for gross lot area located at 230 Spruce Street in an R-4 zone.

MR. BEDETTI: I'll second that.

ROLL CALL

MR. DITTBRENNER AYE MR. BEDETTI AYE MR. HAMEL AYE MR. KANE AYE

MR. SCALZO: Thank you very much.

## VINCENT ARANEO (10-14)

MR. KANE: Last public Vincent Araneo requesting a variance for proposed attached 30 x 23 foot deck with a  $14 \times 16$  screened porch will not meet 20 foot side yard setback. A variance of two feet is required at 15 Ridgeview Road in an R-4 zone.

Mr. Vincent Araneo appeared before the board for this proposal.

MR. KANE: Come on up, tell us what you want to do.

MR. ARANEO: Vincent Araneo, I reside at 15 Ridgeview Road and as stated, I'd like to put up a deck on the back of the house. And the way the house is situated as we had spoke the last time it's not square with the property, it's on an angle and the way the deck will go out will be a little bit closer to the next door neighbor's property than the 20 feet allows.

MR. KANE: Cutting down any trees or substantial vegetation in the building of the deck?

MR. ARANEO: No.

MR. KANE: Creating any water hazards or runoffs?

MR. ARANEO: No.

MR. KANE: Any easements going through where you want to place the deck?

MR. ARANEO: Not that I know of.

MR. KANE: Is the size of the deck similar to the size and nature or other decks that are in your neighborhood?

MR. ARANEO: I'm not quite sure, there's only a

handfull and I really don't go in the back of people's yards to look.

MR. KANE: You personally don't consider the deck to be oversized?

MR. ARANEO: No.

MR. KANE: The 30 foot portion is running along the length of the house?

MR. ARANEO: It's from the back of the house towards the back of the yard.

MR. KANE: That's the 30 and 23 going with the length?

MR. ARANEO: Going with the house itself, yes.

MR. KANE: The  $14 \times 16$  screened porch that's going to be on the deck itself?

MR. ARANEO: Yes, that's the deck that's the portion closest to the next door neighbor.

MR. KANE: Alright, at this point, I'll open it up to the public and ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close the public portion of the meeting and ask Nicole how many mailings we had.

MS. JULIAN: On the 12th day of May, 2010, I mailed out 40 addressed envelopes with no written response.

MR. KANE: And we'll open it back up to the board for further questions. No further questions, I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant the variance of two feet for a 14 x 16 screened porch and 30 x 23 foot deck with a screened porch being part of

the deck that does not meet the 20 foot side yard setback at 15 Ridgeview Road in an R-4 zone.

MR. DITTBRENNER: Second that.

#### ROLL CALL

MR.	DITTBRENNER	AYE
MR.	BEDETTI	AYE
MR.	HAMEL	AYE
MR.	KANE	AYE

# FORMAL DECISIONS

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SHORT

REYNOLDS (PRICE CHOPPER PLAZA)

REYNOLDS (PRICE CHOPPER PLAZA)

BECKER

VAN VOORHIS & GOLDSMITH

 $\mbox{MR. DITTBRENNER:} \;\; \mbox{I would move that we approve the formal decisions as presented in the agenda with one vote.}$ 

MR. BEDETTI: I'll second that.

ROLL CALL

MR. DITTBRENNER AYE
MR. BEDETTI AYE
MR. HAMEL AYE
MR. KANE AYE

MR. KANE: Motion to adjourn?

MR. BEDETTI: So moved.

MR. HAMEL: Second it.

Respectfully Submitted By:

Frances Roth Stenographer